

**SUBJECT:** Certified questions between Supreme Court and Court of Criminal Appeals

**COMMITTEE:** Judicial Affairs — favorable, without amendment

**VOTE:** 8 ayes — Thompson, Hartnett, Alonzo, Goodman, Nixon, Solis, Willis, Zbranek  
0 nays  
1 absent — Duncan

**WITNESSES:** None

**BACKGROUND:** The Texas court system has two highest appellate courts of equal authority. The Supreme Court decides civil matters, and the Court of Criminal Appeals decides criminal matters. Only Texas and Oklahoma have such a system.

In 1985 the Texas Constitution was amended to allow the Supreme Court and the Court of Criminal Appeals to answer questions of state law that were certified from federal courts.

**DIGEST:** HJR 90 would allow the Supreme Court to certify questions of criminal law to the Court of Criminal Appeals and the Court of Criminal Appeals to certify questions of law other than criminal law to the Supreme Court.

HJR 90 would be submitted to the voters at an election on November 7, 1995. The ballot proposal would read: "The constitutional amendment granting the supreme court jurisdiction to answer questions certified from the court of criminal appeals and granting the court of criminal appeals jurisdiction to answer questions certified from the supreme court."

If approved by voters, the amendment would take effect January 1, 1996.

**SUPPORTERS SAY:** The Texas judicial system with it highest courts of equal authority can create an unusual situation when one court must have a question from the other court answered in order to decide a case before that court. This constitutional change would allow the two highest courts to obtain

definitive interpretations of the law in the other court's jurisdiction without the need for a case or controversy to be brought before the other court. Short of merging the two courts, this change would facilitate communication between the courts and promote consistency in the law.

While a legal split between the two highest courts has not occurred for several years, there is no reason to wait for another when this constitutional clarification could prevent such a conflict.

**OPPONENTS  
SAY:**

It is not clear that this authorization is needed. The Supreme Court and the Court of Criminal Appeals have occasionally disagreed when deciding similar issues, but such conflicts are rare. Rather than take up each court's time with advisory opinions from the other court, both courts should concentrate on genuine cases or controversies to develop the law.